

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

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Assessment and Collection of Regulatory
Fees for Fiscal Year 2021

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MD Docket No. 21-190

To: The Commission

**JOINT REPLY COMMENTS OF THE
STATE BROADCASTERS ASSOCIATIONS**

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November 5, 2021

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The Alabama Broadcasters Association, Alaska Broadcasters Association, Arizona Broadcasters Association, Arkansas Broadcasters Association, California Broadcasters Association, Colorado Broadcasters Association, Connecticut Broadcasters Association, Florida Association of Broadcasters, Georgia Association of Broadcasters, Hawaii Association of Broadcasters, Idaho State Broadcasters Association, Illinois Broadcasters Association, Indiana Broadcasters Association, Iowa Broadcasters Association, Kansas Association of Broadcasters, Kentucky Broadcasters Association, Louisiana Association of Broadcasters, Maine Association of Broadcasters, MD/DC/DE Broadcasters Association, Massachusetts Broadcasters Association, Michigan Association of Broadcasters, Minnesota Broadcasters Association, Mississippi Association of Broadcasters, Missouri Broadcasters Association, Montana Broadcasters Association, Nebraska Broadcasters Association, Nevada Broadcasters Association, New Hampshire Association of Broadcasters, New Jersey Broadcasters Association, New Mexico Broadcasters Association, The New York State Broadcasters Association, Inc., North Carolina Association of Broadcasters, North Dakota Broadcasters Association, Ohio Association of

Broadcasters, Oklahoma Association of Broadcasters, Oregon Association of Broadcasters, Pennsylvania Association of Broadcasters, Radio Broadcasters Association of Puerto Rico, Rhode Island Broadcasters Association, South Carolina Broadcasters Association, South Dakota Broadcasters Association, Tennessee Association of Broadcasters, Texas Association of Broadcasters, Utah Broadcasters Association, Vermont Association of Broadcasters, Virginia Association of Broadcasters, Washington State Association of Broadcasters, West Virginia Broadcasters Association, Wisconsin Broadcasters Association, and Wyoming Association of Broadcasters (collectively, the “State Associations”) by their attorneys in this matter, hereby file these Joint Reply Comments in response to the Commission’s Report and Order and Further Notice of Proposed Rulemaking released August 26, 2021 in the above-captioned proceeding and certain of the Comments filed in response thereto.¹

INTRODUCTION AND SUMMARY

The State Associations applaud the Commission’s issuance of the *2021 Fees NPRM* and the associated effort to bring the FCC’s annual regulatory fee assessment and collection process more closely into alignment with the requirements of the RAY BAUM’S Act of 2018.² Broadcasters have subsidized the cost of every single initiative that the Commission has undertaken in the past 27 years through their payment of annual regulatory fees which, given the amounts broadcasters already remit in application fees, contribute heavily to Commission “overhead” and regulation of other industries. Included in that overhead is nearly every

¹ *Assessment and Collection of Regulatory Fees for Fiscal Year 2021*, Report and Order and Notice of Proposed Rulemaking, MD Docket 21-190, FCC 21-98 (“*2021 Fees NPRM*”) (rel. August 26, 2021).

² Pub. Law No. 115-141 § 102, 132 Stat. 348, 1082-86 (2018) (*codified at* 47 U.S.C. §§ 159, 159A).

proceeding that the FCC has undertaken in the last 30 years—including those undertaken to unleash the potential of spectrum to the benefit of the self-proclaimed creators of the American “innovation economy,” as the Consumer Technology Association’s (“CTA”) Comments refer to it,³ and to streamline the equipment certification process so that purveyors of communications devices can begin marketing and making money from such devices faster and easier.

The RAY BAUM’S Act requires that the Commission assure that its annual regulatory fee assessments reflect the benefits parties receive from Commission activities and not simply mete out fees to those who hold pieces of paper called “licenses.” The Commission’s current process does not comply with that statutory mandate, and in addition to being unfair to legacy fee payors such as broadcasters, it is unsustainable. As the State Associations have noted before, broadcasters account for only **0.07%** of allocated spectrum, yet bear over **16 %** of the costs of the Commission’s operations.⁴ Moreover, the number of broadcasters against whom the Commission can assess these fees is declining.⁵ As the drain of the regulatory fee burden increases on all broadcasters, more drop out, increasing the burden on those who remain, until the fee amounts become so unsustainable that there will be few (or none) left to pay them. And, since so little of the annual regulatory fee amount that broadcasters pay actually relates to regulation of broadcasters as opposed to paying for general Commission overhead, the loss of broadcaster payors will not be significantly offset by lower Commission costs. Rather, the Commission will simply come up short on its obligation to repay the Treasury for its

³ Comments of the Consumer Technology Association in MD Docket 21-190 (filed October 21, 2021) (hereinafter “*CTA Comments*”) at 1.

⁴ See Joint Reply Comments of the State Broadcasters Associations filed in MD Docket 21-190 (June 21, 2021) (hereinafter “*FY2021 Reply Comments*”) at 7.

⁵ See State Broadcasters Associations Notice of Ex Parte filed in MD Docket 21-190 (August 19, 2021) at 1 (noting that the Commission’s published Broadcast Totals show an overall loss of at least 122 full-power commercial AM and FM radio stations since 2019).

appropriation or have to belatedly shift those costs to the remaining FCC beneficiaries anyway. Getting this process right is not a matter of merely doing enough to placate disgruntled payors. It is literally an exercise in self-survival for the agency.

Many of the arguments made in this proceeding consist of overblown hyperbole accusing broadcasters of wanting the FCC to charge every American consumer regulatory fees, something that broadcasters have never requested, and an assertion that makes little sense given that the FCC has never sought to charge regulatory fees to the ultimate users of broadcast spectrum—consumers owning radio and television sets. These claims should be seen for the red herrings that they are.

Others argue that they do not receive a benefit from the Commission’s activities. Their businesses, though, would not exist today had legacy payors like broadcasters not funded the Commission’s activities over the past 27 years that made them possible.⁶ These are benefits for which the RAY BAUM’S Act mandates regulatory fees be assessed, and the beneficiaries are certainly not broadcasters, who in a number of cases had their spectrum encroached upon to enable these benefits.

Broadcasters, in these comments and those of the National Association of Broadcasters (“NAB”), offer their support to the Commission in its efforts to get this process right. As previously noted, though, the lack of visibility into the Commission’s fee process substantially

⁶ See, e.g., Reply Comments of R Street Institute in MD Docket 21-190 (filed Nov. 4, 2021) at 2 (acknowledging that “none of this would have been possible without the reallocation of frequencies to unlicensed use...”); Comments of the Association of Home Appliance Manufacturers Association in MD Docket 21-190 (filed Oct 21, 2021) (hereinafter “*AHAM Comments*”) at 5 (noting that “[t]he proliferation of connected appliances – part of the broader development of the Internet of Things (“IoT”) – has occurred because the **Commission** has promoted innovation...” (emphasis added)).

hinders broadcasters in their efforts to do so.⁷ The State Associations nevertheless provide some targeted comments and suggestions herein designed to further the dialog and assist the Commission in this necessary process, and urge the Commission to consider and expand upon them.

I. Among Others, Unlicensed Spectrum Device Equipment Authorization Holders Benefit From Commission Activities, and Costs Attributable to Commission Work Producing Such Benefits Must Not Be Borne by Spectrum Licensees

The Communications Act directs that each year, all amounts “appropriated to the Commission to carry out the functions of the Commission . . . shall be derived from fees authorized by section 159 of this title.”⁸ The fees authorized by Section 159 of the Act are defined as those that the Commission assesses and collects “at such rates as the Commission shall establish in a schedule of regulatory fees that will result in the collection, in each fiscal year, of an amount that can reasonably be expected to equal”⁹ the general appropriation for that fiscal year. The Commission must amend the schedule of fees “if the Commission determines that the schedule requires amendment so that such fees reflect the full-time equivalent number of employees within the bureaus and offices of the Commission, adjusted to take into account factors that are reasonably related to the benefits provided to the payor of the fee by the Commission’s activities.”¹⁰

As the Commission has stated:

Regulatory fees recover direct costs, such as salaries and expenses; indirect costs, such as overhead functions; statutorily required tasks that do not directly equate

⁷ *FY 2021 Reply Comments* at 4.

⁸ 47 U.S.C. § 156.

⁹ 47 U.S.C. § 159(b).

¹⁰ 47 U.S.C. § 159(d).

with oversight and regulation of a particular regulatee but instead benefit the Commission and the industry as a whole; and support costs such as rent, utilities and equipment.¹¹

The activities paid for by annual regulatory fees therefore consist of the full range of activities in which the Commission engages (except auction activities, which are separately authorized under Section 309(j) of the Communications Act), including its rulemaking proceedings that unleash the potential of spectrum for use by the innovation economy, efforts to establish and implement the Commission's equipment certifications, proceedings seeking to create a public good, such as those designed to assure that communications devices provide access for disabled individuals, efforts at expanding the availability of communications services to Tribal Lands, bridging the digital divide, international frequency coordination, enforcing FCC rules for all of these services, and of course, conducting the annual regulatory fee-setting process. For almost 30 years, broadcasters and other legacy fee payors have subsidized the cost of these proceedings and activities, including the many changes in the way the Commission regulates spectrum usage and conducts its operations today, and the new uses to which spectrum is now put.

Against this statutory backdrop, the bulk of the objections raised by commenters seeking to avoid regulatory fee payment obligations can quickly be dispatched as nothing more than straw man arguments. For example, it does not matter if some categories of unlicensed spectrum users might already pay application fees.¹² Broadcasters do as well. By statute, application fees are

¹¹ *2021 Fees NPRM* at 2, ¶ 2.

¹² *See, e.g., AHAM Comments* at 7 (“Any benefit that a user secures from the Commission (rather than a lab or TCB) is captured through Commission application fees.”); Comments of CCIA, DiMA, INCOMPAS and Internet Association in MD Docket 21-190 (filed October 21, 2021) at 6 (“certifications are costly and time-consuming, with expenses (including the FCC’s application filing fee) ultimately being passed down the chain to consumers”); Comments of the Wireless Internet Service Providers Association in MD Docket 21-190 (filed October 21, 2021)

deposited in the U.S. Treasury and are not available to the FCC to use to offset its annual appropriation¹³—all of which must be recovered each and every year solely from regulatory fees.

In fact, it is perhaps in comparison to broadcasters' application fees that the amount of Commission overhead which broadcasters' regulatory fees pay is most apparent. Application processing fees reflect the amount the Commission expects it will cost on average to process the application for which the fee has been collected.¹⁴ In the average broadcaster's eight-year license term, the licensee can reasonably expect to pay application processing fees related to filing four biennial ownership reports (currently \$85 per radio station) and one license renewal application (currently \$325 for a radio station), for a total of approximately \$665.00 in processing costs over eight years.¹⁵ Yet, *in a single year*, nearly every category of radio station is assessed well in excess of that amount in regulatory fees due to the amount of Commission overhead for which broadcasters must also pay.¹⁶

Nor does the fact that the Commission has outsourced some of its work to testing facilities or reduced paperwork requirements for itself and regulatees entitle unlicensed spectrum device makers to a free pass under the statute, as the work that Commission employees have done

(hereinafter "*WISPA Comments*") at 5; Comments of the Industry Technology Council in MD Docket 21-190 (filed October 21, 2021) (hereinafter "*ITC Comments*") at 6.

¹³ *2021 Fees NPRM* at 13 n.69.

¹⁴ See 47 U.S.C. § 158(c) (directing the FCC to amend the fees "so that such fees reflect increases or decreases in the costs of processing applications at the Commission").

¹⁵ If the broadcaster makes any actual request of the FCC apart from merely sustaining its license, such as seeking to modify its facilities after the loss of a tower site, or to sell the station, or operate with facilities at variance following damage to the station, broadcasters pay additional application fees.

¹⁶ For FY2021, of the 48 categories of radio station payors, only 5 categories of AM stations (those with small coverage areas) pay less than \$1,000.00 annually. *2021 Fees NPRM* at 55, Appendix C.

and still do to implement and make that system function benefits them.¹⁷ Similar outsourcing and paperwork reduction has also lessened the work the Commission must do relative to broadcasters, but broadcasters still pay ever-increasing regulatory fees. For example, for decades the State Associations have substantially reduced the Commission's field enforcement burdens while improving compliance with and understanding of Commission rules and policies by operating the Alternative Broadcast Inspection Program in each state at no cost to the Commission. This has allowed the FCC to significantly reduce the number and staffing of FCC field offices while the Commission still receives the associated interference protection and public safety benefits.¹⁸

Similarly, broadcasters have encouraged numerous paperwork reductions that have lessened the Commission's workload. Examples of reductions include reducing ownership report filings from every year to every other year, and reducing renewal filings from once every five years to once every eight years, just to name a few. Broadcasters also incur outside costs from engineers to test and proof their equipment to ensure and demonstrate that it is not causing impermissible interference and to maintain interference-free operation on an ongoing basis. For other industries to argue that these characteristics should exempt them from regulatory fees is to ignore that it has not exempted broadcasters from those same fees.

It is equally irrelevant that the FCC raises money through the auction of spectrum,¹⁹ as that money is also deposited into the Treasury.²⁰ While the FCC retains a portion to defray its

¹⁷ *ITC Comments* at 6; *CTA Comments* at 9-10.

¹⁸ *See Reorganization of the Enforcement Bureau's Field Operations*, Order, 30 FCC Rcd 7649, 7650 (2015).

¹⁹ *WISPA Comments* at 4 ("commenters' suggestions that broadcast licensees bear a disproportionate burden of the Commission's budget fail to account for other systems of cost recovery outside of Section 9, such as auction revenues").

²⁰ *See 2021 Fees NPRM* at 11 n.56.

costs of conducting the auctions, its authority to do so is subject to a separate statutory provision and those funds are not available to offset the Commission's annual appropriation.²¹

Not surprisingly, no commenters are lining up for the opportunity to pay their share of the Commission's costs. All make some variation of the argument that charging them fees ignores the good that their services do for society or that charging fees would run counter to Commission policy encouraging development and innovation in unlicensed spectrum use.²² But again, the same can be said for broadcasters who provide public interest programming at no charge to the public.

In short, the governing statute makes no such exceptions. The cost of regulating even a public good must be recovered every year in the form of regulatory fees. The costs of FCC activities to ensure devices are accessible to those with disabilities and to bring communications services to areas that do not have them are all public goods, but the public does not pay the FCC for those benefits, meaning the FCC must recover them from the associated industry or, all too often, from all FCC regulatory fee payors. The innovation economy doesn't get a pass on doing its fair share to cover these FCC costs.

Concerns about the impact of paying the fees may go to the issue of the amounts assessed by the Commission, but the RAY BAUM'S Act doesn't allow the Commission to ignore benefits

²¹ *Id.*

²² *See, e.g.,* Reply Comments of Itron in MD Docket 21-190 (filed Nov 5, 2021) at 4 ("It defies logic to subsidize the Commission's licensing activities by imposing new fees on technology that will improve and add intelligence to the nation's critical infrastructure, promote efficiency, protect the environment, and mitigate risks like severe weather and global warming."). The State Associations note that broadcasters are also part of the nation's critical infrastructure, particularly in times of crisis. Broadcasters are considered "essential service providers" under federal law and assured access to federal disaster areas to keep communications equipment operational and report news and emergency information. Many states have also enacted "first informer" laws providing broadcasters similar status under state law.

received and regulatory fees therefore due. As the State Associations have themselves noted, “[i]t is inconceivable that after decades of government policies to encourage the availability of radio and television service to every community in the country, Congress intended to deprive local communities of access to free over-the-air broadcast service through the imposition of burdensome regulatory fees on broadcasters.”²³ Saying the Commission should overly burden one public service industry to economically assist other industries whose benefit to the public comes via the sale of devices could not be more backward-thinking, and is certainly inconsistent with the RAY BAUM’s Act regardless.

Of course, the most frequent argument made by such commenters is that they do not in fact “benefit” from the Commission’s activities.²⁴ CTA claims that “no FCC bureau expends resources processing licensing filings or protecting unlicensed spectrum users against harmful interference”²⁵ while acknowledging that “[t]he Office of Engineering and Technology (“OET”) is most involved in proceedings determining the rules in particular bands . . . that devices must follow in order to operate on an unlicensed basis.”²⁶ Regulatory fees must recoup all of the costs of the FCC’s operations, including the costs of FCC rulemaking proceedings that enable the innovation economy’s Part 15 unlicensed uses. The Commission will forever be involved in amending and monitoring the unlicensed spectrum use process, responding to requests from the innovation economy to use spectrum in new ways and for new technologies, and enforcing its rules, not only to prevent interference to licensed users, but to ensure the end user can actually use the devices and products marketed to them.

²³ *FY2021 Reply Comments* at 17 (footnote omitted).

²⁴ See, e.g., *AHAM Comments* at 7.

²⁵ *CTA Comments* at 5.

²⁶ *Id.* at 4.

For example, the Commission earlier this year responded to a petition filed by CTA seeking modification of the equipment authorization rules to speed development and deployment of new products and services.²⁷ Just as broadcasters do not benefit from the Commission’s broadband mapping activities and should not have to pay regulatory fees related to them,²⁸ broadcasters do not benefit from this action, instituted at CTA’s request, and should not be paying regulatory fees related to it. Under the statute, there is no escaping the obligation to recoup these costs, and the RAY BAUM’s Act and *Telesat Canada*²⁹ decision make clear that the cost must be borne by those activities’ beneficiaries. In this case, one need look no further than who asked for the Commission activity in the first place. It wasn’t broadcasters.

Arguments that the only beneficiaries of OET’s activities are licensed users of spectrum are similarly one-sided.³⁰ Unlicensed spectrum devices would be useless if the Commission didn’t police those devices and spectrum, and of course, broadcasters could make the same argument that they shouldn’t be charged fees since the true beneficiaries of the FCC’s broadcast

²⁷ See FCC ACTS TO SPEED ACCESS TO NEW WIRELESS TECH DEVICES, Updated Rules Provide a New Framework for Innovators to Market, Import, and Pre-Sell Tech Devices Earlier in the FCC Review Process, News Release (released June 17, 2021) (“The Report and Order adopted today continues the Commission’s ongoing efforts to review and revise the FCC Office of Engineering and Technology’s equipment authorization program, which ensures that newly developed smartphones, wireless headphones, Wi-Fi routers, and other devices comply with FCC rules. . . . This action modernizes the Commission’s review process to ensure that it keeps pace with the rate of innovation by expanding opportunities to import, market, and conditionally sell radiofrequency equipment prior to the equipment completing the equipment authorization process. The new rules will allow manufacturers to gauge consumer interest for new products and take advantage of new mechanisms for marketing devices—like crowdfunding—while ensuring that the Commission retains appropriate oversight over the proper authorization of such devices.”).

²⁸ 2021 Fees NPRM at 7-8, ¶ 13.

²⁹ *Telesat Canada v. Federal Communications Commission*, 999 F.3d 707 (D.C. Cir. 2021).

³⁰ See, e.g., *ITC Comments* at 3; *AHAM Comments* at 7.

efforts are radio listeners and TV viewers. A benefit is a benefit, and at the FCC, benefits come with a corresponding regulatory fee.

II. The FCC Must Continue to Make the Regulatory Fee Process Fairer by Including All Significant Beneficiaries

The very fact that a party filed comments in this proceeding saying “don’t charge me regulatory fees” is a telling admission that they see themselves as a potential target for such fees *because they know they are a beneficiary of FCC activities*. Makers of tractor tires did not file, nor did furniture manufacturers. And now the Commission will use its resources to read those comments and distill them into further action or proceedings, all of which will need to be funded by someone. The constant refrain from these commenters is that it just wouldn’t be fair if they are that “someone.”

Fairness is an excellent goal, and there are numerous ways the FCC can make the fee process fairer. First and foremost, the Commission should ignore these entreaties for special treatment and implement a neutral benefits-based system as mandated by the RAY BAUM’s Act.

Second, the FCC can make the process fairer by expanding the payor base to include more of those who benefit from the Commission’s activities. As NAB notes:

In a fee system where benefits, not licenses, are the “touchstone” of whether it is reasonable for the Commission to collect fees from a particular payor, the Commission cannot continue to rely solely on its accounting of 25% of Commission FTEs to determine the benefits received by payors from the activities of the Commission as a whole, and must ensure that its proportional allocations corresponds in a meaningful way to the actual work performed by indirect Commission FTEs.³¹

³¹ Comments of the National Association of Broadcasters in MD Docket 21-190 (filed October 21, 2021) (hereinafter “*NAB 2021 NPRM Comments*”) at 8 (footnote omitted).

Third, the Commission should also seek changes in its statutory authority to more fairly apply funds that the Commission's activities already raise, but which currently are not used to offset its costs in raising them.

With regard to expanding the payor base, the Commission should look first to those who hold equipment authorizations permitting them to access the U.S. market. It should then fashion a regulatory fee that reflects the fact that those entities benefit significantly from the Commission's activities. The Commission should also implement the suggestion by NAB that it establish a Broadband Service Providers payor category, and cease treating those costs as "indirect," which makes them the responsibility of all other categories of regulatory fee payors, including broadcasters.³²

The Commission should also seek authority from Congress to retain the excess regulatory fees it collects each year and apply those to offset the amounts that must be collected in the following year.³³ That Congress in some years appropriates more than the Commission has requested and then retains millions of dollars in excess collections while mom and pop broadcasters struggle to make their regulatory fee payments is simply unconscionable.

The Commission should also seek authority to retain some portion of its enforcement fines to at least subsidize the agency's costs in pursuing enforcement actions against those that are not paying regulatory fees. The Commission has stated that its enforcement fines are "designed to redress conduct issues through deterrence."³⁴ However, the same is true for

³² See *NAB 2021 NPRM Comments* at 9-11.

³³ See, e.g., *Federal Communications Commission 2021 Budget Estimates to Congress*, at 59 ("On October 1, 2019, the Commission transferred over \$13.7 million in excess collections from FY 2019 to the General Fund of the U.S. Treasury to be used for deficit reduction.") (available at <https://www.fcc.gov/document/fy-2021-fcc-budget-estimate>) (last visited Nov. 5, 2021).

³⁴ *2021 Fees NPRM* at 13 n.69.

speeding tickets, but court fees are commonly included in the penalties assessed. The arbitrariness of requiring all FCC regulatory fee payors to fund the Commission's activities, rather than having enforcement costs at least partially covered by those found to have violated the law or the agency's rules, is particularly striking in the context of robocalls. Where enforcement actions are brought by the FCC, broadcasters and others must foot the bill. Where, however, the actions are brought by the FTC, DOJ or state agencies, the deterrent effect is similar, but the impact on broadcasters' pocketbooks is very different.³⁵ Viewed in this light, the concept of retaining some portion of the deterrence fee to offset the Commission's costs in obtaining it and pursuing others does not seem unreasonable.

Finally, in a similar vein, the FCC has stated that application fees are deposited in a separate account and are not available to the FCC to defray the costs of its operations.³⁶ This results in a double payment by broadcasters for the work of those FTEs who work on the applications for which both regulatory and application fees are paid. The Commission should ask Congress at every opportunity for authority to apply application fees to reduce the amount that must be recouped through annual regulatory fees. It is ironic that "double billing" has been cast in multiple Commission decisions as a "fraudulent" activity that "reflects adversely on the qualifications of a licensee and, to a degree on the industry as a whole,"³⁷ but has now become a congressionally-mandated method for funding the FCC's operations.

³⁵ See e.g., *FTC, Law Enforcement Partners Announce New Crackdown on Illegal Robocalls*, Press Release, available at <https://www.ftc.gov/news-events/press-releases/2019/06/ftc-law-enforcement-partners-announce-new-crackdown-illegal> (last visited November 4, 2021).

³⁶ *2021 Fees NPRM* at 13 n.69.

³⁷ *Fraudulent Billing Practices*, 23 F.C.C.2d 70, 71 (1970).

The inability to use application fees to offset the costs that the agency incurs in processing the applications for which those fees are collected makes the Commission application fee authority legally suspect. More importantly, it undercuts the ability of the Commission to fund itself, instead inappropriately making the FCC a profit center for the federal government. Commenters in this proceeding are correct that charging regulatory fees makes providing myriad useful communications technologies to the public more expensive and challenging, even where those fees are necessary for the FCC to operate. *Overcharging* providers of these communications services and devices in order to export money to other parts of the government is antithetical to the Commission's public interest mandate to increase the availability of such communications services to all Americans.

A fully effective change would require the involvement of Congress, and the Commission should pursue that. In the meantime, the Commission should reexamine its regulatory fee calculation to prevent the distortion in regulatory fees this practice creates. Specifically, the Commission should remove FTEs whose work is paid for by application fees from the total headcount attributable to the Media Bureau when it calculates the portion of Commission non-Media Bureau overhead that is charged to Media Bureau regulatees. It is bad enough that under its statutory scheme the Commission collects application fees and still charges broadcasters regulatory fees to cover those same application processing costs, but to then allocate Commission overhead based in part on the fact that these already twice-paid-for FTEs happen to work in the Media Bureau is not merely double billing, but triple dipping, and should be stopped immediately.

CONCLUSION

The comments filed in this proceeding are filled with condemnations of broadcasters for suggesting that others benefit from the Commission's work and that, statutorily, the resources expended to bestow those benefits must be recouped in the form of regulatory fees. Some impugn the intelligence of broadcasters, asserting that they do not understand how unlicensed spectrum works. What they uniformly do not do, however, is explain how the RAY BAUM's Act does not require the Commission to collect regulatory fees from them. Frankly, the vehemence with which many commenters attack broadcasters rather than address the applicable law merely demonstrates that they know precisely the degree to which they are beneficiaries of the Commission's activities, and hope to avoid the economic responsibility that comes with that. The vitriolic nature of their protests shows a degree of entitlement to the Commission's largesse that is borne of free-riding on the backs of broadcasters and a broken regulatory fee system for far too long. This proceeding is a welcome first step in changing that, and the State Associations urge the FCC to proceed expeditiously to achieve a fairer and legally defensible regulatory fee structure.

Respectfully submitted,

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